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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Thorsten Bendel

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EXAMINER

MERLINO, ALYSON MARIE

ART UNIT

PAPER NUMBER

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01/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,949	Applicant(s) BENDEL, THORSTEN	
	Examiner Alyson M. Merlino	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The examiner acknowledges applicant's amendments to claims 1 and 3-10, and the cancellation of claim 2, filed 1 October 2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 12 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what applicant is intending to claim in the limitation "without providing a sideways force on the drive disk." Specifically, it is unclear what "sideways force" applicant is referring to in this limitation. Since the specification does not provide a description of a "sideways force" and it is unclear what applicant intends to claim with this limitation, the claim will be given a broad interpretation until further clarification from applicant.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1 and 3-10 are rejected** under 35 U.S.C. 102(b) as being anticipated by Nass et al. (WO 03/018939).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

6. **In regards to claim 1**, Nass et al. discloses a vehicle door latch (Figure 1) having a locking mechanism 1, 2, at least one operating lever 3 for the locking mechanism (Figure 1), and a motor drive 5, 6, 7, 8, 9 for opening the locking mechanism by directly acting upon the locking mechanism solely via the operating lever (Paragraphs 39-40). Nass et al. further discloses that the motor drive is reversible (ability of spring 12 to return disk to position shown in Figure 1, Paragraph 53) and preferably contains a drive disk 7, 8 with a front-sided cam 9 and a rear-sided element limiting the angle of rotation 12.

7. **In regards to claim 3**, Nass et al. discloses that the element limiting the angle of rotation 12 cooperates with a stationary stop 13, 14 (stationary on portion 7) and limits the movement of the rotation of the motor drive to the actuation and reversing direction (spring limits movement).

8. **In regards to claims 4 and 5**, Nass et al. discloses that the operating lever contains at least two arms, specifically three, an operating arm (arm portion near

reference character 3a, Figure 1), an actuation arm (arm portion near reference character 2, Figure 1), and an additional opening arm (arm portion near reference character 4, Figure 1).

9. **In regards to claim 6**, Nass et al. discloses that the operating arm is acted upon by the drive (Figure 1) while the actuation arm acts upon the locking mechanism (engagement with pawl 2).

10. **In regards to claim 7**, Nass et al. discloses that the motor drive acts upon the operating lever in its actuating direction (direction of disk and arm shown in Figure 3) for opening the locking mechanism until the element limiting the angle of rotation rests against the stop in an opening position (position of element in Figure 3).

11. **In regards to claim 8**, Nass et al. discloses that door latch is capable of maintaining the opening position (open until spring reverses movement of operating lever, Figures 3 and 4) until the locking mechanism has been reliably opened.

12. **In regards to claim 9**, Nass et al. discloses that the operating lever pivotally engages the pawl of the locking mechanism to open the locking mechanism and then the motor drive is acted upon in reverse direction until the pawl, held previously by the operating lever, is released (Paragraph 53 and apparent from Figures 1-4).

13. **In regards to claim 10 (as best understood)**, Nass et al. discloses that when the drive disk is in an opening position (Figure 3), a counterforce generated by a spring 16 on the operating lever, runs radially through the cam in the direction of a rotation axis (axis through axle 10, Figure 1) biases the lever in the locking or closed position (Figure 1).

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14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. **Claims 1, 4-6, and 9 are rejected** under 35 U.S.C. 102(b) as being anticipated by Fukumoto (US-5020838).

16. **In regards to claim 1**, Fukumoto discloses a vehicle door latch having a locking mechanism 2A, at least one operating lever 3 for the locking mechanism, and a motor drive 5, 7, 70, 71 for opening the locking mechanism by directly acting upon the locking mechanism solely via the operating lever (Col. 3, lines 6-27). Fukumoto further discloses that the motor drive is reversible (apparent from two rotational directions shown in Figure 1) and preferably contains a drive disk 5 with a front-sided cam 53 and a rear sided element 6 limiting the angle of rotation (Col. 1, lines 57-60).

17. **In regards to claims 4 and 5**, Fukumoto discloses that the operating lever contains at least two arms, specifically three, an operating arm (arm portion near reference character 32, Figure 1), an actuation arm (arm portion near reference character 31, Figure 1), and an additional opening arm (arm portion connected to lever 98, Figure 1).

18. **In regards to claim 6**, Fukumoto discloses that the operating arm is acted upon by the drive while the actuation arm acts upon the locking mechanism (engagement shown in Figure 1 and Col. 3, lines 6-27).

19. **In regards to claim 9**, Fukumoto discloses that the operating lever pivotally engages the pawl of the locking mechanism to open the locking mechanism and then the motor drive is acted upon in reverse direction until the pawl, held previously by the operating lever, is released (Col. 3, lines 6-42 and direction C2).

Response to Arguments

20. Applicant's arguments filed 1 October 2007 have been fully considered but they are not persuasive.

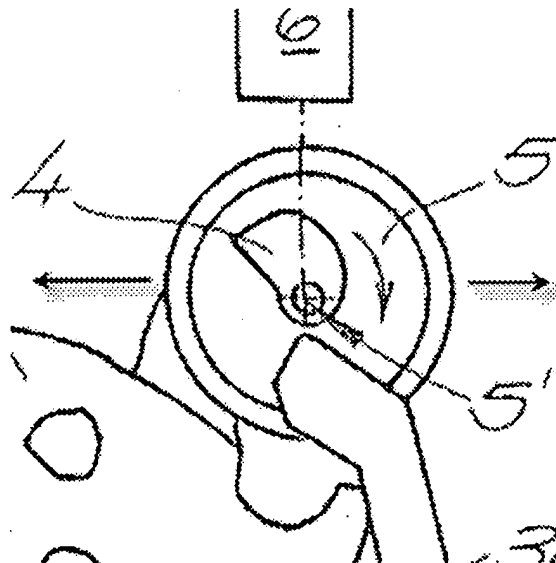
21. In regards to applicant's remarks at the bottom of page 6 through page 8, the examiner points out that the claim recites that the motor drive is operable in a reverse direction, not that the electric motor is operable in reverse. Nass et al. discloses that the spring 12 causes the motor drive 5, 6, 7, 8, 9 to be operable in a reverse direction, such as the rotation of the drive disk in the reverse direction of the direction indicated in Figure 1. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the operation of the electric motor 6 in reverse) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

22. Furthermore, the meshing of the drive disk and the worm gear 6 would cause a reverse rotation of the worm gear and its shaft being part of the electric motor 5, which makes the electric motor operable in a reverse direction. Also, applicant notes in the first full paragraph on page 7 that Nass et al. does not disclose that the motor drive

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directly acts upon the locking mechanism solely via the operating lever. The examiner would like to point out that Figures 1-4 of Nass et al. clearly show that the motor drive 5, 6, 7, 8, 9 directly acts upon the locking mechanism solely via the operating lever. Therefore, the rejection of claims 1 and 3-10 under 35 U.S.C. 102(b) as being anticipated by Nass et al. still stands.

23. In regards to the rejection of claim 12 under 35 U.S.C. 112, second paragraph, set forth above, it is unclear what "sideways force" applicant is referring to in the limitation. The examiner sets forth in the figure below (using arrows) a possible "sideways force" with respect to the drive disk 5 of applicant's device, however, it is unclear how the spring would prevent a force such as the one below. Therefore, claim 12 was given a broad interpretation until further clarification from applicant concerning what is meant by a "sideways force."



24. The examiner appreciates applicant's amendment of claim 9 in order to clarify the cooperation between the pawl and operating lever, therefore, the rejection of claim 9 under 35 U.S.C. 112, second paragraph, in the previous office action is withdrawn.

Conclusion

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM *km*
January 4, 2008



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